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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1321st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 11 March 1999, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU

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The meeting was called to order at 3.15 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Czech Republic (continued) (CERD/C/348)

1. At the invitation of the Chairman, the members of the delegation of the Czech Republic resumed their places at the Committee table.

2. Mr. UHL (Czech Republic), replying first to a comment by Mr. Rechetov, said he agreed that the Czech Government bore responsibility for the actions of the local authorities. As to his question on when various groups had come to the Czech Republic, he said that the Roma had settled there in the fourteenth or fifteenth century. Those living in Bohemia and Moravia had been the victims of genocide in the Second World War. There had been 7,000 Roma before the war, and only 500 afterwards. After the war, those living in the territory of the Czech Republic had generally been better off than those living in other areas. Prior to 1945, there had been more Roma in the parts of the country previously inhabited by Germans. As to the parts of Usti nad Labem where Roma lived, those who had come from Slovakia were regarded as foreigners: before the division of Czechoslovakia in 1992, many Roma had lived in the Slovak part, and it had been very difficult for them to acquire Czech citizenship. Just three weeks previously, the Czech Government had decided to abrogate what had been a rather unsatisfactory law and to introduce new legislation, which was currently before Parliament. Once that legislation had been passed, such persons would automatically acquire Czech citizenship without any complicated bureaucratic procedures. The Czech Government was attempting to help those persons who had arrived after the dissolution of Czechoslovakia to obtain citizenship or at least a permanent residence permit.

3. Turning to the text of decision 2 (53), as he understood it there were no other localities in the Czech Republic that intended to build such a wall or fence. There were many localities with such residential units, which were sometimes built by municipalities as low-income housing for people who could not afford the rent elsewhere. By law, no one could be evicted and simply made homeless, and the municipality was therefore under an obligation to offer modest, decent accommodation in which there might perhaps be shared bathrooms, but with running water, heating, etc. That was a social problem that did not concern the Roma. The Roma congregated in some localities of their own accord. Successive Czech governments had acknowledged that there was still discrimination against the Roma and had taken measures to combat it. Almost all discrimination concerned the private sector, where the State did not always have power to take action.

4. The Government had instructed him to draw up a plan of action to promote Roma integration in Czech society. The plan, produced with the help of a team of several dozen specialists, would be submitted to the Government on 31 March for adoption. The Prime Minister had also asked him to produce a draft for a Government decision on action to combat skinheads.

5. It was important to carry out prevention work in schools so as to ensure that the young generation did not embrace violent racist ideology. The Committee would be interested to learn that he had prepared a programme containing points incorporated from the Committee's recommendation on the need to hold training courses for judges and to introduce education in schools to combat xenophobia and promote tolerance.

6. On 11 January, the Czech Government had adopted a plan for a campaign to fight racism and encourage tolerance, implementation of which was currently being prepared in the media and in schools. Teachers, religious figures and heads of scout groups were being targeted to participate in the campaign. Teaching about racial and ethnic equality had to begin in primary school. Summer school courses on tolerance were offered for primary school teachers. Police officer training included courses in preventing xenophobia and fostering respect for human rights.

7. Replying to questions asked by Mr. de Gouttes and Mr. Garvalov on why the Czech Government had still not revoked the decision by the local authority of Usti nad Labem, he pointed out that the fence to be erected on Maticní Street would separate two housing blocks and that a separate footpath was to be built for access to the main street. The fence was to be erected solely because of the noise made by the children, more than 50 in number, when they played in front of the four neighbouring single-family dwellings, which were inhabited by non-Roma residents. Those four families did not consider themselves to be racist; they simply objected to the noise. The explanation given by the municipality was that in any case, it had been a bad idea to crowd so many people into residential blocks, but that the decision had been a welfare measure and had not been motivated by racist sentiment; nor had the plan to erect a fence had anything to do with racism. He was in fact convinced that, in the end, the municipality would decide against building the fence. Incidentally, the Committee's decision 2 (53) was itself unclear, because the English version spoke of "segregation", whereas the French version spoke of isolation (isolement), thus suggesting that even the Committee was not entirely certain whether it was asserting that segregation was really at issue.

8. Regarding the question by Mr. de Gouttes on the attitude of the local population, the persons in the four neighbouring single-family dwellings had not requested the construction of a fence, but of a wall four metres high. Needless to say, a small percentage of the total population of the town of Usti nad Labem wanted the gypsies out, and were pleased about the plan for the fence. An equal number of persons saw a risk of racism; the vast majority was indifferent.

9. Replying to the question by Mr. Sherifis on what the Czech Government was doing to prevent similar cases elsewhere, he said that the government projects to which he had just referred would help prevent their recurrence. The Czech Government wanted to make the Roma population feel at home. The aforementioned plan of action was the best way of achieving that goal, which was one of integration and not assimilation. It was a courageous undertaking, because many people wanted minority groups to abandon their culture and language. It was important for Roma to be proud of their origins and to make their contribution to Czech society.

10. In his view, the Convention had not been published sufficiently. Of course, it had appeared in the Official Gazette, and it had been issued by the Ministry of the Interior for the police. The country report and the Committee's concluding observations could be consulted on the Internet and were also broadly distributed by the Ministry of Foreign Affairs. He himself had made those documents available at the Czech Department of Commerce, which was working to prevent certain shops, restaurants and discotheques from discriminating against Roma. If there was a sign banning Roma from entering, the State prosecuted, although legally speaking the matter was complex. Perhaps more effective measures needed to be adopted to help combat the phenomenon in the courts.

11. In closing, he said it was difficult to consider the issue that had been raised without bearing in mind the social context.

12. The CHAIRMAN, speaking in his capacity as a member of the Committee, said that he found the analysis he had just heard unconvincing. The Czech representative had acknowledged that there were problems and had said that cases would be brought to court. Yet if such persons did not even have money to pay their rent, it was difficult to imagine how they pay lawyer's fees. The onus should not be on the victims to lodge complaints. If the Government knew that such incidents were taking place - and the Czech representative's remarks suggested that it did - it was duty-bound to take immediate action to stop them and to punish those responsible. The residential blocks had been built specifically for the Roma, because although ostensibly they were for anyone who could not pay rent, in actual fact 70 to 80 per cent of those living there were Roma. The Czech Government must bring the weight of the Convention to bear in preventing the fence from being built. He found it difficult to believe that Roma children were the only ones who made a noise when they played outside.

13. The Committee would not be satisfied unless the plan to erect a fence was immediately cancelled, and it looked forward to reading in the next report that it had in fact been revoked by order of the State in accordance with the Convention. The matter was a clear-cut racial problem and had to be dealt with as such.

14. Mr. DIACONU said that the Committee's dialogue with the delegation had been productive and oriented towards practical action. He took note of the Government's undertaking to comply with the provisions of the Convention and take action on behalf of the disadvantaged Roma minority. He wished the Czech authorities every success in implementing their plan.

15. Mr. UHL (Czech Republic) said that his purpose in appearing before the Committee had not been to defend a wall or a fence but to describe the Government's measures to bring down barriers, to promote tolerance and to eradicate xenophobia. The authorities had adopted a cautious approach because they were convinced that that approach would eventually prove more effective in eliminating racial discrimination as defined in article 1 of the

Convention. The Committee's ongoing support and constructive criticism would assist the Czech authorities in their efforts to alert the general public to the dangers inherent in racist attitudes.

16. The Czech delegation withdrew.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Twelfth, thirteenth, fourteenth and fifteenth periodic reports of Costa Rica (CERD/C/338/Add.4)

17. At the invitation of the Chairman, Mr. Diaz-Paniagua, Mr. Guillermet and Mr. Penrod (Costa Rica) took places at the Committee table.

18. Mr. DIAZ-PANIAGUA (Costa Rica), introducing and updating his country's report, said that his Government welcomed the opportunity to engage in a constructive dialogue with the Committee in order to undertake an objective assessment of anti-discrimination policies and measures in support of vulnerable groups in Costa Rica.

19. Sustained economic growth in Costa Rica in recent years had had a positive social impact. Urban unemployment had declined by 5.4 per cent in 1998. Costa Rica belonged to the group of States with a high rate of human development and ranked among the top few developing countries in terms of its literacy ratio and life expectancy.

20. Almost 95 per cent of the population of Costa Rica was of mixed Spanish and indigenous origin, with a subsequent African and Asian racial input. About 3 per cent of the population, or 100,000 people, were Afro-Costa Rican, 1 per cent were indigenous and another 1 per cent of Chinese origin. The figures were unfortunately little more than estimates because no information on ethnic background had been collected in national censuses and statistics since 1950. The Government was fully aware of the Committee's guidelines but a statistical breakdown into racial categories was viewed as inconsistent with constitutional guarantees of equality in a society most of whose members had ancestors of mixed blood.

21. Costa Rica traditionally gave refuge to victims of natural disasters, civil strife and economic difficulties in neighbouring countries and had recently admitted a large number of Nicaraguans. Legally resident Nicaraguans accounted for 56 per cent of the total number of resident aliens; unofficial estimates put the total number of legally resident and undocumented Nicaraguans at over half a million. It was hoped that many of them would regularize their status under the six-month migratory amnesty decreed in the wake of Hurricane Mitch so that they could be placed on the same footing as Costa Ricans in terms of guarantees and obligations. By 8 March 1999, 42,353 applications for residence had been received and it was estimated that some 300,000 Central Americans would be registered by the end of the amnesty period.

22. Article 33 of the 1949 Constitution stipulated that everyone was equal before the law and prohibited any discrimination that was incompatible with

human dignity. Pursuant to article 7 of the Constitution, the Convention took precedence over domestic legislation. As a result, any law or practice that was inconsistent with its provisions was automatically rendered void. Any inconsistent rule or practice introduced after its ratification, even if enacted by the legislature, was also rendered void and could be challenged on grounds of unconstitutionality. Victims of a violation of the provisions of the Convention were free to institute judicial and administrative proceedings to obtain redress, for example in the form of an amparo application to a specialized division of the Supreme Court.

23. International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries also enjoyed superior legal status and the Constitutional Court (Sala Constitucional), a division of the Supreme Court, had decided in June 1998 that some of its provisions took precedence over the rights and guarantees recognized by the Fundamental Charter for indigenous peoples.

24. Costa Rica was aware that implementing legislation was required to ensure full compliance with the Convention and had adopted legislation on behalf of the indigenous population and criminal provisions to punish discrimination. Under Act No. 4430 of 21 May 1968, as amended by Act No. 4466 of 19 November 1969, it was a punishable offence to deny individuals access to associations, places of entertainment, hotels and similar establishments, clubs and private educational establishments on grounds of racial discrimination. First-time offenders paid a fine. A first repeat offence entailed closure of the establishment for six months and a second entailed definitive closure. Under article 371 of the Penal Code, discriminatory acts by persons in charge of public or private institutions or industrial or commercial establishments were punishable initially by a fine and subsequently by suspension from duties for a specific period. Under article 372 of the Penal Code, directors or members of organizations of an international character which engaged in trafficking of slaves, women, children or drugs or in acts of terrorism, or which breached the provisions of human rights treaties ratified by Costa Rica were punishable by a term of imprisonment. Under article 272, members of domestic organizations that promoted the commission of acts of racial discrimination were also punishable by a term of imprisonment. Persons who publicly praised the commission of an offence or a person convicted of an offence were punishable by a fine or a term of imprisonment under article 274 of the Penal Code. Other provisions punished co-perpetrators and accomplices as well as incitement to criminal acts. Article 387 punished incitement to hatred of a person or institution in public places or through the press or other writings.

25. The Afro-Caribbeans who had come to Costa Rica in the nineteenth century to work on the railways and in banana plantations had preserved their language and culture. However, literacy campaigns during the past 40 years had jeopardized bilingual education in Limón Province. The State was currently investing heavily in a bilingual education programme for all educational establishments, focusing on Limón Province, and there was a trend towards closer contacts between the culture of Afro-Costa Ricans of Jamaican origin and that of the Central Valley. Although Afro-Costa Ricans were concentrated on the Caribbean coast, they also lived in other parts of Costa Rica.

26. The Constitutional Court had heard a number of cases involving charges of racial discrimination by Afro-Costa Ricans. In 1993, Mr. Henry Jones Williams, a teacher, had filed an application for amparo, alleging racial discrimination by the principal of his school. The Constitutional Court had dismissed the application for lack of proof of differential treatment. In 1995, Ms. Carolyn Markland Francis, a model, had filed suit against Mr. José Tabora Wilson for allegedly excluding her from a fashion show on account of her race. The Court, noting that the plaintiff had failed to challenge the arguments adduced by the defence, had dismissed the case.

27. In 1998 the Constitutional Court had heard a case brought by persons of colour against the owners of a dancehall, "El Coyote", alleging that they had been denied access on grounds of public safety and morals rather than racial discrimination. The judgement of the Court had been based on the principle that the establishment of categories as the basis for differential treatment of persons belonging to a particular ethnic group in a manner contrary to human dignity was impermissible since such action was arbitrary and unconstitutional. The Court had commented at length on the unacceptability of racial prejudice and discrimination and had referred explicitly to the Convention. It had unfortunately been unable to grant the application for amparo because the plaintiffs and witnesses had failed to respond to repeated requests for proof in support of their allegations. However, it had ruled that when an establishment used permissible restrictions on the right of admission as a pretext for racial or ethnic discrimination, its actions were illegal. It had thus set a precedent for subsequent cases.

28. Two of the 57 members of the Costa Rican Parliament were Afro-Costa Ricans and an Afro-Costa Rican woman had held the office of Minister of the Interior from 1994 to 1998.

29. While the Office of the Ombudsman, established in 1992, had received no complaints of racial discrimination from Afro-Costa Ricans, it had received a variety of complaints from the indigenous population concerning land rights, the right to be consulted, access to institutions, the right to health, education and self-determination, and lack of control over sales of alcoholic beverages in indigenous areas.

30. A bill on the "Autonomous Development of the Indigenous Peoples" was being drafted with a view to implementing the Convention and ILO Convention No. 169. It recognized the autonomy of the indigenous peoples, their right to assert the equal status of their cultures, the right to administer their own lands, to prepare a development plan and to take development decisions consistent with their traditions and customs. In 1993 the Subcommittee on Indigenous Affairs of the Legislative Assembly had prepared a preliminary draft and consultations concerning the bill had been held in 40 indigenous communities. Each community had elected a representative to speak on its behalf and in September 1997 a National Forum of Indigenous Cultures had been attended by 39 elected representatives to discuss the final version of the bill, which was subsequently returned to the Legislative Assembly.

31. The President of the Supreme Electoral Tribunal had noted in his report that the members of the indigenous communities had come to the consultations very well prepared and had shown, not least through the opposition put up by

certain sections of the indigenous population, how interested they were in new legislation on their situation. Despite some attempts on the part of members of certain institutions working with indigenous populations to sabotage the consultations, meetings had been very well attended. The bill had subsequently been adopted unanimously by the Legislative Assembly's Permanent Commission on Social Affairs and was now awaiting enactment.

32. The Ombudsman had attributed a significant fall in the number of complaints from indigenous communities to the success of the consultations and the great efforts made to publicize them among those communities. Unfortunately, the consultation process had been marred by disputes among different indigenous associations and groups and among national institutions, over which groups were the legitimate representatives of the indigenous peoples and which body should be responsible for carrying out the consultations. The drafting process might also have been adversely affected to some extent by various personal differences among the indigenous leadership. Overall, however, the consultations in connection with the bill had been a valuable learning experience and the Ombudsman had recently suggested setting up an inter-agency commission, with indigenous representation, to devise a consultation framework that could be applied to various aspects of the life of indigenous peoples. Any recommendations by the Committee in that respect would be conveyed to his authorities.

33. If the bill was enacted, it would replace the traditional "indigenous reservations" by indigenous territories, registered with Indigenous Territory Management Boards, each of which would be democratically elected by, and representative of, an indigenous community. Under the bill, indigenous lands would be inalienable, unattachable, imprescriptible and untransferable to non-indigenous persons. Any development would be subject to consultation with a territory's inhabitants and any exploration or exploitation of sub-surface natural resources would be subject to legislative approval and to consultation with the relevant Management Board. The territories would also be exempt from tax and moves would be made to recover lands occupied by non-indigenous persons within indigenous territory.

34. With regard to health, the bill recognized indigenous people's right to use traditional medicine and guaranteed equality of treatment with the rest of the population, by requiring the Ministry of Health and the Costa Rican Social Security Fund, inter alia, to hire staff with knowledge of indigenous languages, prioritize indigenous persons in recruitment and authorize free social security to indigenous persons on request.

35. A new Department of Indigenous Education would be established, under the Ministry of Public Education and the direction of a member of the indigenous community, with responsibility for programmes aimed at strengthening indigenous culture and informing the rest of the population about that culture. The bill provided for compulsory teaching of the indigenous language at all levels of State education provided in the indigenous territories.

36. The bill required the Ministry of Housing to set aside funds for the building of housing in indigenous territories, in consultation with the Management Boards and taking account of indigenous architectural styles and materials. It also required that compensation should be paid for any

ecological damage caused to the indigenous territories. With regard to the administration of justice, the bill recognized the application of indigenous customary law and provided for its codification.

37. A National Fund for Indigenous Development would be set up to assist indigenous communities with sustainable development projects, training scholarships, the recovery of indigenous lands owned by non-indigenous individuals and the administration of the Management Boards. Lastly, the National Indigenous Affairs Commission (CONAI) would be replaced by a National Indigenous Institute. The proposed legislation was in many respects innovative and could well yield positive results.

38. Other recent developments included the Constitutional Court's 1997 ruling that the Ministry of Culture's reduction in CONAI's budget was in breach of ILO Convention No. 169, and the Ombudsman's programme of support for local initiatives to solve the problems of indigenous communities, which aimed to establish an indigenous rights protection network by training local leaders, especially women, who would put pressure on the relevant government agencies to meet their obligations towards the indigenous communities.

39 The work of the Department of Indigenous Education was beginning to bear fruit, and the number of schools in indigenous communities had increased from 119 in 1995 to 137, with 5,397 students. In the health sphere, there were now eight basic health-care teams in operation, and the Ombudsman had recommended the establishment of an integrated local health-care system to coordinate government and traditional community health-care provision.

40. In conclusion, he informed the Committee that the drafting of the periodic report had involved broad-based intersectoral consultation and coordination; the report had been distributed to interested NGOs and published on the Internet.

41. Mr. YUTZIS (Country Rapporteur) said that the very comprehensive oral report might usefully have been submitted in advance. It was, in effect, a second report and would be difficult to analyse immediately. Praising Costa Rica's long tradition of democracy, he noted that the Convention took precedence over domestic law, and welcomed the legislation on women, the establishment of the National Indigenous Affairs Commission (CONAI) and the institution of the Office of the Ombudsman. Costa Rica's signing of ILO Convention No. 169 would provide an incentive for the further development of indigenous issues, a matter to which Costa Rica clearly attached great importance. The migratory amnesty decreed in February 1999 was a welcome development.

42. On the negative side, the situation of refugees and immigrants generously taken in by Costa Rica was not always favourable despite the fact that Costa Rica did not lack experience in dealing with such groups. Common problems were discrimination in employment, health, education and housing, and immigrants were frequently stereotyped as "criminals". Nicaraguans seemed to experience the greatest difficulties. He acknowledged, however, that the State party was aware of what it described as "the defencelessness of undocumented immigrants" (para. 16).

43. He referred to Amnesty International reports of alleged intimidation, including death threats, against a Honduran, the wife of a Honduran intelligence service interrogator, in 1996, which the authorities had taken no steps to prevent, following which she had taken refuge in a European country. He wondered if the State party could provide any information on that case.

44. Immigrant labour had been exploited in the period under consideration by latifundistas producing sugar cane and citrus fruits (in the north), coffee (various regions) and bananas (Atlantic region). Some of the companies involved had been transnational corporations, which meant that the State must to some extent have been aware of what was happening. How far did such demand for agricultural labour influence Costa Rica's policy of openness to immigrants? What special measures existed to protect employees in those sectors? What contribution did those sectors make to structural solutions to the problems arising from inflows of immigrants? Was there any effective policy of preventing discrimination against immigrants and if so how widely was it publicized and what results had it had? What strategies did the State make available to immigrants to enable them to organize and defend their own rights?

45. New arrivals had reportedly had problems obtaining work permits and he asked what measures had been taken, in particular, to help new immigrants from Colombia, Peru, Liberia, Sierra Leone and the Russian Federation. Were reports that Central Americans were given preference in obtaining work permits true? It had also been reported that Cubans found it hardest to get work permits and that Nicaraguans had been the victims of violence and sometimes - in the case of those without documents - deportation.

46. The bill for the Autonomous Development of the Indigenous Peoples was of great importance. However, in the past, a somewhat "integrationist" approach had been taken to the application of the law to indigenous peoples. Debate had long raged in Latin America over the concept of mixed descent (mestizaje), which seemed to be used to play down the existence of indigenous communities. Yet those communities were the poorest and most marginalized in Costa Rica, with living conditions as bad as any in the poorest countries of Central America.

47. The use of the word "Indian" in paragraph 21 of the report was perhaps a lapse, but it was nevertheless regarded as a racist term by indigenous people. Furthermore, the delegation had appeared to take a rather pejorative view of indigenous communities when, in its oral presentation, it had blamed disputes among group leaders for the failure of some aspects of the consultations on the bill for the Autonomous Development of the Indigenous Peoples. A further instance of that attitude was to be found in paragraph 22 of the report, which explained the land issue as a product of "the internal weakness of the indigenous communities, which were unable to defend themselves on their own". That stood in marked contradiction to the references to indigenous peoples' participation in the consultations on their rights. In modern times, the problem had been a lack of resources, rather than of physical defences, to ensure a genuine transfer of reservations to the indigenous communities.

48. Despite legal demarcation of indigenous reservations (para. 23), the lands only passed into indigenous hands after expropriation from

non-indigenous proprietors. What percentage of lands legally declared reservations was effectively in indigenous hands? What time-limits were specified by law to effect expropriation from non-indigenous landowners in those territories? How many indigenous families living in reservation areas had no land? How many indigenous families lived outside the reservations and possessed no land within the reservations or elsewhere? What provisions existed for the allocation of land holdings within indigenous reservations once the land had been expropriated, and to what extent was there State control over allocation? According to CONAI data, around 50 per cent of land declared by law to belong to reservations was not in indigenous hands. The issue of land was a most important one for indigenous people, both for their subsistence and for the maintenance of their cultural identity. According to NGO estimates, around 50 per cent of indigenous persons of working age possessed no land. The problem was aggravated by population growth which meant that indigenous-owned land had to be continually divided up into smaller holdings, decreasing its productive capacity. As he interpreted it, the increased distribution of land to indigenous peoples was achieved by subdividing land they already possessed rather than by providing them with access to new land within the reservations which remained in non-indigenous hands.

49. He welcomed the emphasis in the oral statement on the inalienable, imprescriptible and non-transferable character of those lands, but asked how the State was dealing with the problem of access to credit for indigenous people, pointing out that, since land was held under collective title it could not be sold nor could the indigenous holders be alienated from it in any way, which meant that it was of no use as a guarantee for credit transactions. In reality, indigenous people had no opportunity for access to credit, nor did they have insurance for their harvests or products, insurance premiums being too high for small peasant producers. What were the State's plans for permanent technical advisory services, which would systematically include indigenous producers? Indigenous peoples ought also to have access to the kind of allowances and incentives given to farmers living in areas near the reservations, which was apparently not currently the case. What aid or incentives were they given for marketing their products? The rapid exhaustion of the soil by "slash and burn" techniques and the lack of options for fair marketing of their agricultural products further inhibited the development of a production economy and perpetuated the subsistence economy.

50. With regard to the Talamanca case, the Committee was aware of the tensions related to oil prospecting. The persons who had attacked the indigenous community were reported to have been arrested and brought before the courts. What action had the courts taken?

51. With reference to article 5 of the Convention, the health of the nearly 40,000 indigenous people and health care provision for them was a major cause of concern. What was the investment budget for the indigenous areas? How many clinics were there? Several of them were apparently not located in indigenous areas and access to them was difficult for indigenous persons. Moreover, he had information that in recent years the few health centres located in indigenous territories have been shut down; some centres had been created on the outskirts, but they were ill-equipped and had only minimal staff - seldom including indigenous persons - who made sporadic

visits. NGO reports particularly mentioned respiratory, dermatolog gastro-intestinal diseases, snake bites and malnutrition among the Bribri, Teribe, Guaymí, Huetar, Maleku, Chorotega and Boruca ethnic living in 22 reservations. There were many first-hand witness acco great sufferings of the indigenous community.

52. He welcomed the information provided orally on efforts to add issue of black persons in Costa Rica, which had been omitted from t The Committee required data on the social situation of the black po although he did not want to overstate the issue since they were not great numbers. However, it was vital to have details not only of t framework, under which they and other ethnic groups were covered, b the situation in practice in order to help the Committee understan position.

53. Regarding the case brought by persons of colour for denial o a dancehall, although the final ruling had set an important precede concerned by the implications of the plaintiffs' reported inabilit evidence. Had they failed to cooperate with the authorities? Had known how to present a case or had genuine difficulties in obtaini aid? Without prejudging the issue, the Committee wished to know wh Constitutional Court had been unable to obtain evidence. Such att detail showed to what extent the Committee took the State report a implementation of the Convention seriously.

54. Mrs. SADIQ ALI asked why, despite the law passed by the Gove 1977 creating indigenous reservations and authorizing measures to indigenous languages and cultures, only six languages had survived 12 ethnic groups. Most of the land on many reservations was appar hands of non-indigenous persons, and other reservation lands were by mining and petroleum prospection, which had been sanctioned by amendments to the 1977 law; could the delegation clarify the issue Ratification of ILO Convention No. 169 and its domestic legal stat consolidated the indigenous movement and led to indigenous demands laws affecting them be updated. The law of 1977 envisaged changes territorial rights, but it had virtually never been applied since inadequate measures for eviction, due process and so on. She hope recent election of a new Government and Legislative Assembly would setback for the bill for the Autonomous Development of the Indigen

55. Mr. de GOUTTES welcomed the updated information provided and announcement of new projects, particularly for the benefit of indi peoples. There were several positive developments, particularly C declaration under article 14, recognizing individual communication found many passages of the report exceptionally frank, particularl discrimination against indigenous persons and illegal immigrants, results in the education and training of indigenous people.

56. The Office of the Ombudsman was an important institution, bu information was needed on how many complaints of ethnic or racial discrimination had come to the Ombudsman's attention. Were there grounds for the popular belief that Costa Ricans were ethnically d

from other Central Americans (para. 10)? Was the evaluation and review of current migration policy (para. 17) intended to make it more open or more restrictive?

57. The legislation referred to in paragraphs 20 to 90 appeared to cover the requirements of article 4 of the Convention, but were the spreading of racist ideas and membership of racist organizations actually punishable offences under the Penal Code? The Committee needed to know the extent to which domestic legislation was compatible with the Convention.

58. The information on various remedies (paras. 131 to 179) was too general. He also regretted that there were so few examples of prosecution and sentencing, the only judgements specifically referred to being the dubious decisions mentioned in paragraphs 90 and 91. He would like more information on other judgements.

59. Mr. VALENCIA RODRIGUEZ, referring to the interpretation of article 33 of the Constitution according to which differences in legal treatment should not be arbitrary but based on considerations of rationality, asked whether any distinctions other than the example given in paragraph 88 of the report were legally acceptable. He welcomed the Government's measures to overcome resentment and prejudices against the hundreds of thousands of refugees and externally displaced persons in the country by enabling them voluntarily to acquire temporary or permanent residence status (para. 13). How had the programme been operating, and what were its prospects for the future? Apparently the situation of illegal immigrants was precarious and they were subject to discrimination by the rest of the population, including the authorities. It was a point that needed emphasizing so that current efforts would be strengthened. Undocumented and potential immigrants should perhaps be better informed about the requirements for legal entry, and about their fundamental rights and the possible remedies to which they had recourse to legalize their situation.

60. The issue of indigenous peoples, who accounted for 1 per cent of the total population, had clearly been a matter of long-standing concern to the Costa Rican Government, as evidenced by the enactment of various laws and establishment of various bodies since 1939, the most important being CONAI and the Indigenous Act, No. 6172, of 1977. However, it was still necessary to give close attention to the application of the Act in order to overcome remaining deficiencies. He welcomed Costa Rica's ratification of international instruments, including ILO Convention No. 169, and measures adopted in the health and education spheres. Legislation had been slow in finding the right approach but the results achieved in education seemed positive, although continuing efforts were needed. Were there now enough schools for indigenous pupils and did they come up to the communities' "expectations"?

61. Paragraphs 80 et seq. of the report showed that the provisions of the Penal Code, particularly article 371, partially met the requirements of article 4 (a) but he hoped that the Government would inform the Committee of all the provisions of domestic legislation intended to implement fully the obligations under article 4, and that the legislation mentioned by the delegation would appear in the following report so that the Committee could

review it in detail. What had been the results of the application of Act No. 4430 of 1968 on the admission of people of different races to public or private places (para. 89)? Could more information be provided on cases of violations?

62. The information on registration of indigenous peoples in the Civil Registry was instructive with regard to article 5, but he hoped that the next report would give more details of the application of the other rights under that article. With regard to article 6, he asked whether the remedies available to potential victims of racial discrimination, including the Constitutional Court, amparo, habeas corpus and unconstitutionality, had actually been applied with regard to racial discrimination cases. Finally, he hoped that the absence of information on the implementation of article 7 would be made good in the next report.

63. Mr. EANTON said that the written report contained much information that was not relevant to the Convention and hence distracted attention from the absence of vital information. The report showed that Costa Rica had well drafted laws, but not how effective they were in practice; other members had pointed out some of the obvious gaps. He hoped that the next report would explain how well Costa Rica succeeded in delivering the protections it had promised its citizens when it had ratified the Convention.

The meeting rose at 6.05 p.m.